

### **REMARKS/ARGUMENTS**

The Examiner is thanked for her continuing attention to this application and indication of allowable subject matter. In response to the Final Office Action, applicant hereby amends the claims to place all pending claims in condition for allowance. A notice of allowance is urged.

#### **The Status of the Claims**

This Amendment After Final is submitted to put all claims in condition for allowance. Applicant believes that therefore entry of this Amendment After Final and issuance of a Notice of Allowance is proper.

Upon entry of this amendment Claims 1, 3, 4, 7, 9, and 38 are pending, with the remaining claims cancelled. Of the presently pending claims, claim 9 is independent, the remaining claims being dependent on claim 9.

#### **35 U.S.C. § 112**

The claims were objected to because no definition is provided for “out-of-plane” microneedles. Applicant previously traversed the rejection based on the grounds that the meaning of the term was clear in its usage throughout the specification and with reference to the figures and Applicant requested further clarification.

In her response, the Examiner maintains that the term is present only in other patents and applications from the same inventors or assignee as the present application. Applicant respectfully suggests that the Examiner is not correct.

A search performed by the undersigned using Google™ on 13-Mar-08 with the search term:

**"out-of-plane microneedles" -Stoeber -California**

returned 167 documents, the large majority of which were not directly connected with the assignee. The term “out-of-plane microneedles,” or very similar variations thereof, is used in many titles and abstracts of technical and scientific publications that are not associated with the University of California both before and after the priority date of the present application indicating its wide understanding in the relevant art. The Examiner’s

attention is directed to the following reference, for example, which Applicant submits herewith for the Examiner's convenience.

**Novel, side opened out-of-plane microneedles for microfluidic transdermal interfacing**, Griss, P.; Stemme, G. (Department of Signals, Sensors and Systems, Royal Institute of Technology, 100 44 Stockholm, Sweden). The Fifteenth IEEE International Conference on Micro Electro Mechanical Systems, 2002 Page(s):467 – 470 Digital Object Identifier 10.1109/MEMSYS.2002.984303

Note that this paper repeatedly discusses different designs of in-plane and out-of-plane microneedles (sometimes abbreviated uN) using the terms in such a way that it is clear that the authors believed the terms to be readily understood to those of skill in the art.

Thus, Applicant maintains his position that the term is well understood in the relevant art and therefore the objection should be withdrawn.

However, should the Examiner disagree with this position, Applicant would consent to the following element added to claim 9 by Examiner's amendment.

**said out-of-plane microneedles comprising a plurality of microneedles vertical with respect to a substrate plane;**

This limitation describes the arrangement of microneedles such as illustrated in the Figures, the examples discussed in United States Patent 6406638 METHOD OF FORMING VERTICAL, HOLLOW NEEDLES WITHIN A SEMICONDUCTOR SUBSTRATE, AND NEEDLES FORMED THEREBY or methods of formation such as discussed in [0058].

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If after consideration of the above response, the Examiner does not find that all pending claims are in condition for allowance, **applicant hereby requests a telephone interview with the Examiner. Please contact the undersigned at (510) 769-3508.**

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Respectfully submitted,

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